

AMENDED IN ASSEMBLY MAY 20, 2004

AMENDED IN ASSEMBLY MAY 12, 2004

AMENDED IN ASSEMBLY APRIL 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2905

Introduced by Assembly Member Spitzer

February 20, 2004

An act to amend Section 832.9 of the Penal Code, relating to public safety officials.

LEGISLATIVE COUNSEL'S DIGEST

AB 2905, as amended, Spitzer. Public safety officials.

Existing law provides that the governmental entity employing a peace officer shall reimburse moving and relocation expenses if it is necessary for him or her to move because he or she has received a credible threat that a life threatening action may be taken against him or her or his or her immediate family as a result of his or her employment.

This bill would instead provide that these provisions are applicable to ~~public safety officials, as specified~~ *peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender*. By imposing a new duty on local agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 832.9 of the Penal Code is amended to
2 read:

3 832.9. (a) ~~The A governmental entity employing the public~~
4 ~~safety official a peace officer, as defined in Section 830, judge,~~
5 ~~court commissioner, or an attorney employed by the Department~~
6 ~~of Justice, the State Public Defender, or a county office of a district~~
7 ~~attorney or public defender shall reimburse the moving and~~
8 ~~relocation expenses of a public safety official, as defined in~~
9 ~~Section 6254.24 of the Government Code those employees, or any~~
10 ~~member of his or her immediate family residing with the officer~~
11 ~~in the same household or on the same property when it is necessary~~
12 ~~to move because the officer has received a credible threat that a life~~
13 ~~threatening action may be taken against the public safety official~~
14 ~~officer, judge, court commissioner, or an attorney employed by the~~
15 ~~Department of Justice, the State Public Defender, or a county~~
16 ~~office of the district attorney or public defender or his or her~~
17 ~~immediate family as a result of the public safety official's his or~~
18 ~~her employment.~~

19 (b) The person relocated shall receive actual and necessary
20 moving and relocation expenses incurred both before and after the
21 change of residence, including reimbursement for the costs of
22 moving household effects either by a commercial household goods
23 carrier or by the employee.

24 (1) Actual and necessary moving costs shall be those costs that
25 are set forth in the Department of Personnel Administration rules
26 governing promotional relocations while in the state service. The
27 department shall not be required to administer this section.

(2) The public entity shall not be liable for any loss in value to a residence or for the decrease in value due to a forced sale.

(3) ~~Public safety officials~~ *Except as provided in subdivision (c), peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall receive approval of the appointing authority prior to incurring any cost covered by this section.*

(4) ~~Public safety officials~~ *Peace officers, judges, court commissioners, and attorneys employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall not be considered to be on duty while moving unless approved by the appointing authority.*

(5) For a relocation to be covered by this section, the appointing authority shall be notified as soon as a credible threat has been received.

(6) Temporary relocation housing shall not exceed 60 days.

(7) The public entity ceases to be liable for relocation costs after 120 days of the original notification of a viable threat if the ~~official~~ *peace officer, judge, court commissioner, or attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender has failed to relocate.*

(c) (1) *For purposes of the right to reimbursement of moving and relocation expenses pursuant to this section, judges shall be deemed to be employees of the State of California. A court commissioner shall be deemed to be an employee of the county in which the court where he or she is employed is located.*

(2) *For purposes of paragraph (3) of subdivision (b), a court commissioner shall receive approval by the presiding judge of the superior court in the county in which he or she is located.*

(3) *For purposes of paragraph (3) of subdivision (b), judges, including justices of the Supreme Court and the Courts of Appeal, shall receive approval from the Chief Justice, or his or her designee.*

(d) As used in this section, “credible threat” means a verbal or written statement or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as

1 to cause the person who is the target of the threat to reasonably fear
2 for his or her safety or the safety of his or her immediate family.

3 ~~(d)~~

4 (e) As used in this section, “immediate family” means the
5 spouse, parents, siblings, and children residing with the ~~official~~
6 *peace officer, judge, court commissioner, or attorney employed by*
7 *the Department of Justice, the State Public Defender, or a county*
8 *office of a district attorney or public defender.*

9 SEC. 2. Notwithstanding Section 17610 of the Government
10 Code, if the Commission on State Mandates determines that this
11 act contains costs mandated by the state, reimbursement to local
12 agencies and school districts for those costs shall be made pursuant
13 to Part 7 (commencing with Section 17500) of Division 4 of Title
14 2 of the Government Code. If the statewide cost of the claim for
15 reimbursement does not exceed one million dollars (\$1,000,000),
16 reimbursement shall be made from the State Mandates Claims
17 Fund.

